

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

BAR 25, LLC,)	CASE NO. 1:13-cv-00665-LW
)	
<i>Plaintiff,</i>)	JUDGE LESLEY WELLS
vs.)	
)	
BEER MARKET ONE, LLC, et. al,)	
)	
<i>Defendants.</i>)	CONSENT DECREE

Upon stipulation of the parties, the Court finds as follows:

1. Plaintiff Bar 25, LLC (“Bar 25”) or its predecessors in interest have operated a bar and restaurant in Ohio under the name the Bier Markt (pronounced “beer market”) since 2005.
2. In 2007, Bar 25 registered the trade names “Bier Markt” and “Beer Market” with the Ohio Secretary of State.
3. The public has come to associate the mark “Bier Markt” with the goods and services offered by Bar 25, and the mark has acquired a secondary meaning.
4. In 2011, defendant Beer Market One, LLC (“BMO”) began operating a bar and restaurant in Illinois known as The Beer Market.
5. In early 2013, BMO announced plans to open multiple bar and restaurant operations in Ohio using The Beer Market mark. This announcement caused actual confusion among Bar 25’s customers as to whether or not Bar 25 would be associated with the bars and restaurants that BMO proposed to operate under The Beer Market mark.

Based on the foregoing facts, this Court concludes as follows:

1. Bar 25 has the exclusive right to the Bier Markt and Beer Market marks in Ohio. Those marks have acquired a secondary meaning and the public recognizes those marks as being associated with the goods and services offered by Bar 25 on West 25th Street in Cleveland, Ohio.

2. Any use by BMO of The Beer Market name or mark in Northern Ohio in connection with a bar or restaurant will cause confusion as to the source, sponsorship or approval of its goods and services and will infringe Bar 25's rights.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED
THAT:

1. BMO, Rhumblin and any entity under common ownership or control are enjoined from advertising or using, in Northern Ohio, The Beer Market name or mark or any mark that is confusingly similar to the Bier Markt or Beer Market marks. For purposes of this Order, the term Northern Ohio means those counties to the North of the Southern boundaries of Mercer, Shelby, Logan, Union, Delaware, Knox, Coshocton, Tuscarawas, Harrison and Jefferson Counties.

2. Except as outlined in this Decree, all claims brought, or that could have been brought, in the Litigation are dismissed with prejudice. Each party to bear its own costs and legal fees.

3. Nothing in this Decree shall prohibit defendants from using The Beer Market marks outside of Northern Ohio.

SO ORDERED, this ___ day of August 2013.

Judge Lesley Brooks Wells
United States District Judge